

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

E.I. DUPONT DE NEMOURS AND	:	CIVIL ACTION
COMPANY	:	
	:	
v.	:	
	:	
THE NEW PRESS, INC., ET AL.	:	NO. 97-6267

**MEMORANDUM AND ORDER**

HUTTON, J.

February 24, 1999

Presently before this Court is the petition of Thomas G. Guiney ("Guiney") and Melvin R. Shuster ("Shuster") (collectively, the "Movants") for Leave to Withdraw as Counsel for Defendants, Horizon Graphics, Inc. ("Horizon") and Barry Sarenson ("Sarenson") (collectively, the "Defendants") (Docket No. 29). For the reasons that follow, this Motion will be denied with leave to renew.

Pennsylvania's Rules of Professional Conduct apply in proceedings before this Court. E.D. Pa. R. Civ. P. 83.6 (Rule IV). Ordinarily, a lawyer should not accept representation in a matter unless it can be performed to completion. Pa. R. Prof. Conduct 1.16. A lawyer may withdraw from representing a client if, among other grounds, "withdrawal can be accomplished without material adverse effect on the interests of the client," unless he is ordered by a tribunal to continue the representation. Pa. R. Prof. Conduct 1.16(b), (c). Under the Local Rules of Civil Procedure, "[a]n attorney's appearance may not be withdrawn except

by leave of court, unless another attorney of this Court shall at the same time enter an appearance for the same party." E.D. Pa. R. Civ. P. 5.1.

Whether to permit an attorney to withdraw must be determined with reference to the purpose underlying Local Rule 5.1, which includes "ensuring effective court administration." Ohntrup v. Firearms Ctr., Inc., 802 F.2d 676, 679 (3d Cir. 1986).\<sup>1</sup> More specifically, the following four factors should be considered: (1) the reasons withdrawal is sought; (2) the prejudice withdrawal may cause to litigants; (3) the harm withdrawal might cause to the administration of justice; (4) the degree to which withdrawal will delay resolution of the case. Mervan v. Darrell, C.A. No. 93-4552, 1994 WL 327626, at \*2 (E.D. Pa. Jul. 8, 1994); Brown v. Hyster Co., C.A. No. 93-2942, 1994 WL 102008, at \*1 (E.D. Pa. Mar. 25, 1994). The Court finds that the Movants have inadequately addressed these issues.

In the instant case, Horizon retained the Movants to act on its behalf, whereas Sarenson retained only Guiney. The Movants allege that Sarenson, who is also the President of Horizon, has indicated to Guiney that he is "hopelessly mired in debt and has no ability to pay either the outstanding legal bills from Guiney's law firm ... or even the fees associated with filing a bankruptcy

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<sup>1</sup>/ Effective July 1, 1995, the Local Rules of Civil Procedure for the Eastern District of Pennsylvania were renumbered to create nationwide uniformity. Previously, Local R. Civ. P. 5.1 was Local R. Civ. P. 18.

petition." (Movants' Mot. at 1.) Movants assert that it would be unfair to require them to continue to represent the Defendants with no prospect of being paid for their services. (Id. at 1-2.)

The Movants fail to address whether withdrawal would harm or prejudice the Defendants' rights or substantially delay the resolution of the case. Furthermore, the Motion filed by the Movants is defective. The Movants' failed to file a memorandum of law supporting their motion for leave to withdraw as counsel. Local Rule 7.1(c) states that "[every motion not certified as uncontested, or not governed by Local Civil Rule 26.1(g), shall be accompanied by a brief containing a concise statement of the legal contentions and authorities relied upon in support of the motion." E.D. Pa. R. Civ. P. 7.1(c). Accordingly, Movants' motion is denied with leave to renew.

An appropriate Order follows.

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O R D E R

AND NOW, this 24th day of February, 1999, upon consideration of the petition of Thomas G. Guiney ("Guiney") and Melvin R. Shuster ("Shuster") (collectively, the "Movants") for Leave to Withdraw as Counsel for Defendants, Horizon Graphics, Inc. ("Horizon") and Barry Sarenson ("Sarenson") (collectively, the "Defendants") (Docket No. 29), IT IS HEREBY ORDERED that Movants' Motion is **DENIED with leave to renew.**

BY THE COURT:

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HERBERT J. HUTTON, J.